

**RULES  
OF  
TENNESSEE DEPARTMENT OF HEALTH  
BUREAU OF HEALTH SERVICES ADMINISTRATION  
DIVISION OF COMMUNICABLE DISEASE CONTROL**

**CHAPTER 1200-14-3  
POLICY FOR PREVENTING TRANSMISSION OF CERTAIN SEXUALLY TRANSMITTED DISEASE  
(HUMAN IMMUNODEFICIENCY VIRUS (HIV) AND HEPATITIS B VIRUS (HBV) ) TO PATIENTS  
THROUGH MEDICAL AND DENTAL PROCEDURES**

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**1200-14-3-.01 PURPOSE AND BACKGROUND.**

The proper application of infection control principles will minimize any risk of transmission of Human Immunodeficiency Virus (HIV) or Hepatitis B Virus (HBV) from health care worker (HCW) to patient, patient to HCW or patient to patient. HIV or HBV infection alone does not justify or support limiting a HCW's professional duties. The current assessment of the risk that infected HCWs will transmit HIV to patients during invasive procedures does not justify mandatory testing of HCWs. Limitations, if any, should be determined on a case-by-case basis after consideration of the factors that influence transmission risk including inability and/or unwillingness to comply with infection control standards and/or functional impairments which interfere with the job performance of the HCW.

**Authority:** T.C.A. §§4-5-204, 63-1-120(8), 63-1-136, 63-6-219, 68-1-101, 103 & 106, 68-10-101, 109, 112, 113 and 114, 68-29-107, and Public Law 102-141, section 633. **Administrative History:** Original rule filed August 20, 1993; effective November 3, 1993.

**1200-14-3-.02 DEFINITIONS.** For the purpose of these regulations, the terms used herein are defined as follows:

- (1) CHIEF MEDICAL OFFICER - the state health officer, or his designee, appointed by the Commissioner of Health who is responsible for and advises the Commissioner and Department on all matters of state health policy, including public health. For the purposes of these rules, in a vacancy in the office of the Chief Medical Officer, such officer's functions and duties set out herein these rules shall be assumed by the Medical Director of the Department's AIDS Program.
- (2) COMMISSIONER - the Commissioner of Health or his designee.
- (3) HEALTH CARE WORKER (HCW) - Any person whose activities involve contact with patients or with blood or other body fluids, in a health care setting, including persons licensed to practice the healing arts or any branch thereof, in this state pursuant to the provisions of Title 63 of the Tennessee Code Annotated, and students and trainees.
- (4) HOSPITAL HIV-HBV CONFIDENTIAL EXPERT REVIEW PANEL (HOSPITAL HIV-HBV REVIEW PANEL) - A Tennessee hospital committee, appointed by the hospital Chief of Staff, composed and functioning in accordance with the guidelines of the American Hospital Association and the provisions of Tennessee Code Annotated §63-6-219. Legislative policy declaration - Medical Review Committees - Immunity of members - Confidentiality of records - Short title, which is convened with the purpose of establishing practice standards, on a case by case basis, for any HIV or HBV infected HCW, employed at or practicing their profession in the hospital, at the HCW's request. The committee is composed of the HCW's personal physician, an infectious disease specialist, a health professional with expertise in the procedures performed by the infected HCW, and the Chief Medical Officer of the State of Tennessee.

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The hospital Chief of Staff may appoint such additional members as the Chief of Staff deems necessary or appropriate.

- (5) TENNESSEE DEPARTMENT OF HEALTH HIV-HBV CONFIDENTIAL EXPERT REVIEW PANEL (TDH HIV-HBV REVIEW PANEL) - A Tennessee Department of Health committee, appointed by the Chief Medical Officer of the State, which is convened with the purpose of establishing practice standards for any HIV or HBV infected HCW. The committee is composed of the HCW's personal physician, an infectious disease specialist, a health professional with expertise in the procedures performed by the infected HCW, the Tennessee Department of Health Regional Medical Officer or Regional Dental Officer, the Medical Director of the Department's AIDS Program and the Chief Medical Officer of the State of Tennessee. The Chief Medical Officer may appoint such additional members as he deems necessary or appropriate.
- (6) UNIVERSAL PRECAUTIONS - An approach to infection control according to which all human blood and certain human body fluids are to be treated as if known to be infectious for HIV, HBV, and/or other blood-borne pathogens. In order to prevent the transmission of blood-borne infections, Universal Precautions requires the blanket implementation of infection, control procedures, including, in regard to the use and disposal of needles and other sharp instruments, appropriate care and proper utilization of handwashing and protective barriers. Guidelines for Universal Precautions are published by the Centers for Disease Control and Prevention (CDC) and can be found in CDC Recommendations for prevention of HIV transmission in health-care settings MMWR 1987; 36 (suppl no 2S) 1-18s, and CDC Update Universal precautions for prevention of transmission of human immunodeficiency virus, hepatitis B virus, and other bloodborne pathogens in health care settings MMWR 1988; 37 pp 377-82, 387-8, or more current updates.

**Authority:** T.C.A. §§4-5-204, 63-1-120(8), 63-1-136, 63-6-219, 68-1-101, 103 and 106, 68-10-101, 109, 112, 113 and 114, 68-29-107, and Public Law 102-141, section 633. **Administrative History:** Original rule filed August 20, 1993; effective November 3, 1993.

#### **1200-14-3-.03 ADMINISTRATION AND IMPLEMENTATION OF THE POLICY.**

- (1) All HCW's shall adhere to Universal Precautions in the provision of health care services. HCWs must comply with current guidelines for disinfection and sterilization of reusable devices used in medical and dental procedures. All HCW's shall receive periodic training in infection control procedures, including Universal Precautions.
- (2) All HCW's are encouraged to undergo personal assessments to determine their need for HIV and HBV testing. These assessments should include consideration of known high-risk behavior as well as risks associated with health care related occupational exposure. If they are at risk, HCW's should determine their HIV and HBV status in order to protect and improve their health and to receive appropriate counseling. The decision to be tested for HIV or HBV is the responsibility of the individual HCW.
- (3) The Chief Medical Officer of the State of Tennessee will, at the request of an HIV or HBV infected HCW, convene an expert review panel to provide advice and give guidelines for assuring patient safety in the provision of the HCW's health care services.
- (4) The Chief Medical Officer of the State of Tennessee may, at the request of an HIV or HBV infected HCW, allow a Tennessee licensed hospital to convene a hospital based HOSPITAL HIV-HBV REVIEW PANEL to provide advice and give guidelines for assuring patient safety in the provision of the HCW's health care services in lieu of presenting the matter to the TDH HIV-HBV REVIEW PANEL. All records and information held by the hospital for review by this panel relating to known

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or suspected cases of infection with HIV or HBV in any HCW are strictly confidential, shall not be released or made public by the Department or the hospital or the HOSPITAL HIV-HBV REVIEW PANEL upon subpoena, court order, discovery, search warrant or otherwise, except as may be authorized under T.C.A. §§10-7-504(a), 63-6-219 or 68-10-113.

- (5) The review panel may recommend modification of procedures, notification of patients, or monitoring of restrictions if the panel determines that a significant risk of transmission to patients may exist. The recommendations of the review panel will be set out in a written agreement and, if agreed to by the HCW, such agreement will be evidenced by the HCW's signature. Willful or knowing or repeated rejection or violation of the panel's recommendations by the HCW, or inability to follow the panel's recommendations because of mental or physical disease or defect, shall be reported to the Tennessee Department of Health, Division of Health Related Boards or the Tennessee Board of Pharmacy for evaluation, and as indicated by the evaluation, for appropriate disciplinary action.
  - (a) If the infected HCW is dissatisfied with the recommendation of the HOSPITAL HIV-HBV REVIEW PANEL, the HCW may appeal to the TDH HIV-HBV REVIEW PANEL for a de novo evaluation.
  - (b) If the infected HCW is dissatisfied with the recommendation of the TDH HIV-HBV REVIEW, the HCW may request a contested case hearing, in the manner provided by the terms of the Tennessee Uniform Administrative Procedures Act (UAPA), Title 4, Chapter 5 of the Tennessee Code Annotated.
- (6) In determining the advisability of voluntary HIV or HBV testing and in evaluating the medical practices of an infected HCW, the expert review panel and/or the individual HCW should refer to the current disease control guidelines established by the CDC and disease control standards recognized by the national professional medical organizations. In addition, the panel should refer to the following:
  - (a) Many procedures pose negligible risk to the patient of exposure to infection through the HCW's blood when performed using standard infection control techniques, including Universal Precautions. Examples of these procedures include physical examinations; blood pressure checks; eye examinations; phlebotomy; administration of intramuscular, intradermal or subcutaneous injections (i.e., vaccinations); needle biopsies, needle aspirations or lumbar punctures; angiographic procedures; vaginal, oral or rectal exams; endoscopic and bronchoscopic procedures; and insertion and maintenance of peripheral and central intravascular lines, nasogastric tubes, endotracheal tubes, rectal tubes or urinary catheters. Even if a HCW were to sustain an injury while performing these procedures, it is highly unlikely that the patient would be exposed to the HCW's blood. Thus, no restrictions on performance of these procedures are necessary provided that standard infection control practices are used.
  - (b) Those HCWs for whom HB vaccine is recommended by the ACIP or OSHA should receive the HB vaccine. HCWs who perform surgical or obstetrical procedures that involve surgical entry into tissues, cavities or organs, or who perform dental procedures involving manipulation, cutting or removal of oral or perioral tissues, including tooth structure, and who do not have serologic evidence of immunity to HBV resulting from vaccination or previous infection are encouraged to voluntarily ascertain their HBsAg status. If they are HBsAg positive, they should also know their HBeAg status. HCWs who have tested positive for HBeAg should seek counsel from the expert review panel before continuing to perform these procedures.
  - (c) Those HCWs for whom HIV counseling and testing has been previously recommended by the Public Health Service (PHS), due to occupational or non-occupational exposure to HIV, are encouraged to voluntarily ascertain their HIV antibody status. HCWs, (1) who are infected with

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HIV, and (2) who perform surgical or obstetrical procedures that involve entry into tissues, cavities, or organs, or who perform dental procedures involving manipulation, cutting, or removal of oral or perioral tissues, including tooth structure, should not continue to perform those procedures until they have sought counsel from the expert review panel.

(d) Among the items the review panel should consider, on an individual basis, in evaluating an HBeAg or HIV seropositive HCW are the following:

1. Whether the HCW performs procedures in which injury could result in contamination of a patient's body cavity, subcutaneous tissues, or mucous membranes by the HCW's blood (e.g., procedures in which hands may be in contact with sharp instruments, objects, or sharp tissues inside a patient's body cavity, particularly when the hands are not completely visible);
2. Factors affecting the performance of procedures by the individual HCW (e.g., techniques used, skill and experience, and compliance with recommended infection control practices); and,
3. The medical condition of the HCW (e.g., the presence of physical conditions or mental impairment that may interfere with the HCW's ability to perform these procedures safely).

(e) Depending upon its individualized evaluation, the panel should determine whether or under what circumstances the HCW may continue to perform or be restricted from performing procedures. In some circumstances, the panel may recommend modification and monitoring or procedures performed by the HCW to decrease the risk.

1. If the panel determines that this HCW's performance of all or certain procedures poses a significant risk of infection to patients, and such significant risk cannot be eliminated by reasonable accommodation, then the HCW should be restricted from performing such procedures.
2. If the panel determines that the HCW's performance does not pose a significant risk for infection of patients during the procedures within HCW's scope of practice, then no restrictions are indicated. Hence, notification of the patient regarding HCW's infection status prior to the performance of such procedures is not necessary.

(7) HCWs whose practices are modified because of their HBV or HIV infection status should, whenever possible, be provided opportunities to continue appropriate patient-care activities. Career counseling and job retraining should be encouraged to promote the continued use of the HCW's talents, knowledge and skills. HCWs whose practices are modified because of HBV infection should be reevaluated periodically to determine whether their HBeAg status changes due to resolution of infection, or as a result of treatment.

**Authority:** T.C.A. §§4-5-204, 63-1-120(8), 63-1-136, 63-6-219, 68-1-101, 103 and 106, 68-10-101, 109, 112, 113 and 114, 68-29-107, and Public Law 102-141, section 633. **Administrative History:** Original rule filed August 20, 1993; effective November 3, 1993.